



# LEGAL BRIEFS

From the Fort Knox Legal Assistance Office

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## FACTS CONCERNING KENTUCKY'S LEMON LAW

### YOU MUST HAVE PURCHASED A CERTAIN TYPE OF VEHICLE

The Kentucky Lemon Law KRS 367.840 to 367.846 applies to "... every vehicle which is self propelled, and which is intended primarily for use and operation on the public highways and required to be registered or licensed in the Commonwealth prior to such use or operation, however, 'motor vehicle' shall not include conversion vans, motor homes, motorcycles, mopeds, farm tractors and other machines used in the production, harvesting and care of farm products, or vehicles which have more than two (2) axles."

### THE VEHICLE MUST BE NEW

"New motor vehicle means a motor vehicle which has been finally and completely assembled and is in the possession of a manufacturer, factory branch, distributor, wholesaler or an authorized motor vehicle dealer operating under a valid sales and service agreement, franchise or contract for the sale of such vehicle granted by the manufacturer, factory branch, distributor or wholesaler which is, in fact, new and on which the original title has never been issued."

### WHEN IS A VEHICLE CONSIDERED A LEMON UNDER THE LAW?

"If, after a reasonable number of attempts, the manufacturer or its agents are unable to repair the non-conformity in the motor vehicle to the express warranty during the first twelve thousand (12,000) miles of operation or during the first twelve (12) months following the date of delivery to the buyer, whichever is the earlier date ..." and buyer has reported the non-conformity, in writing, to the manufacturer, then the vehicle is considered a lemon.

### HOW MANY TIMES DO I HAVE TO TAKE IT BACK?

"It shall be presumed that a reasonable number of attempts have been undertaken to express warrant if .... (a) The **same** (emphasis added) non-conformity, defect, or condition has been subject to repair four (4) or more times by the manufacturer, but such non-conformity, defect or condition continues to exist; or (b) The vehicle is out of service/use by reason of repair of the **same** (emphasis added) non-conformity, defect, or condition for a cumulative total of at least thirty (30) calendar days."

### WHAT IS NON-CONFORMITY AND WHAT IS A DEFECT?

"Non-conformity means a failure to conform with an express warranty in a manner which substantially impairs the use, value, or safety of the motor vehicle." A defect is something that impairs the worth or usability of the vehicle. It may not be a safety problem.

### IF I ESTABLISH A VEHICLE IS A LEMON WHAT CAN I GET?

You may be allowed, at your option, to have the manufacturer replace the vehicle with a "comparable vehicle" not exactly the same or return the vehicle and be given a full refund. However, the refund is less any

amount to be determined to be, "... a reasonable allowance for buyer's use of the vehicle."

### IF THE DEALER OR MANUFACTURER DOES NOT AGREE THAT THIS IS A LEMON OR AGREE WITH MY CHOICE, WHAT CAN I DO?

Disputes about whether a motor vehicle is a lemon or about what you are entitled to are to be resolved through the dispute resolution system established by Kentucky laws under the provisions of KRS 367.860, or Federal Law 16 Code of Federal Regulations, Part 703. You must follow those procedures before you can file suit against the manufacturer. You may contact the State Attorney general's office at 1-800-432-9257 to get information on arbitration proceedings and find out which of the arbitration proceedings handles cases with your particular manufacturer.

### WHAT IF A DEALER IS NOT WILLING TO COMPLY IN ANY WAY WITH MY REQUESTS TO REPAIR MY CAR WHICH MAY BE CONSIDERED A LEMON UNDER KENTUCKY LAW?

The Kentucky Attorney General's office has the authority to enforce the provisions concerning defective motor vehicles. You should file a formal complaint on the forms provided by the Attorney General's Office. Their consumer affairs division can be reached by calling 1-800-432-9257. They cannot help with your private law suit, but if you are getting no cooperation at all, then they can compel the manufacturer to comply with the law.

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If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771. Our hours of operation are Monday through Friday, 0800 - 1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall (north of the post office on Knox Street).